

AMENDED IN SENATE MARCH 22, 2004

SENATE BILL

No. 1271

Introduced by Senator Ortiz

February 13, 2004

~~An act to amend Section 35160.5 of the Education Code, relating to school districts. An act to repeal Chapter 1037 of the Statutes of 2000, relating to the Grant Joint Union High School District.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 1271, as amended, Ortiz. ~~School districts: pupil extracurricular and co-curricular activities~~ Grant Joint Union High School District.

Existing law requires a school district that succeeds the Grant Joint Union High School District to use, for home-to-school transportation, the funding made available pursuant to voluntary desegregation programs and requires that pupils in grades 7 to 12, inclusive, who apply to transfer from a school district that succeeds the Grant Joint Union High School District to another school district that succeeds the Grant Joint Union High School District to be granted a transfer according to certain priorities, among which is that the transfer would mitigate schoolsite segregation.

This bill would repeal these provisions and instead state the intent of the Legislature that, if the Grant Joint Union High School District is reorganized to create 2 new unified school districts, the reorganization be implemented in a manner that provides constitutionally permissible opportunities for the voluntary racial, ethnic, and socioeconomic integration of pupils attending the each school district.

The bill would require a proposal to reorganize the Grant Joint Union High School District that is initiated by the Sacramento County Committee on School District Organization and approved by the State

Board of Education before December 31, 2007, to include requirements that pupils eligible to enroll in any of grades 7 to 12, inclusive, except expelled pupils, whose parents are residents of any school district that succeeds the Grant Joint Union High School District have the same rights to enroll in any secondary school in a district that succeeds the Grant Joint Union High School District as a pupil whose parents are residents of that other district, and that the successor school districts to the Grant Joint Union High School District provide free transportation to these pupils if they so request, hold joint annual meetings to review segregation issues, and grant seniority rights to employees of school districts that cease to exist as a result of the proposal who become employees of the successor districts.

The bill would require a ballot measure to approve this proposal to clearly inform the voters that by approving the measure the voters are mandating the successor school districts to incur costs to implement the requirements described above and that these costs would not be reimbursed by the state. The bill would make legislative findings and declarations in this regard.

The bill would declare that, due to the unique circumstances applicable to the Grant Joint Union High School District, a general statute within the meaning of certain provisions of the California Constitution cannot be made applicable and a special statute is necessary.

~~Existing law requires the governing board of each school district that maintains one or more schools containing any of grades 7 to 12, inclusive, as a condition for the receipt of an inflation adjustment in its state apportionments, to establish a policy that would ensure, as a condition for pupil participation in extracurricular and cocurricular activities in grades 7 to 12, inclusive, as prescribed, satisfactory educational progress in the previous grading period.~~

~~This bill would make technical, nonsubstantive changes to those provisions.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 ~~SECTION 1. Section 35160.5 of the Education Code is~~
- 2 ~~SECTION 1. Chapter 1037 of the Statutes of 2000 is repealed.~~

1 SEC. 2. *It is the intent of the Legislature that, if the Grant Joint*
2 *Union High School District is reorganized into two unified high*
3 *school districts, the reorganization be implemented in a manner*
4 *that provides constitutionally permissible opportunities for the*
5 *voluntary racial, ethnic, and socioeconomic integration of pupils*
6 *attending each school districts.*

7 SEC. 3. *A proposal to reorganize the Grant Joint Union High*
8 *School District that is initiated by the Sacramento County*
9 *Committee on School District Organization and approved by the*
10 *State Board of Education before December 31, 2007, shall include*
11 *provisions stating that approval of the reorganization by the voters*
12 *is approval of the following conditions:*

13 (a) *Notwithstanding any provision of law, a pupil who is*
14 *eligible to enroll in any of grades 7 to 12, inclusive, except an*
15 *expelled pupil, whose parents are residents of any school district*
16 *that succeeds the Grant Joint Union High School District has the*
17 *same rights to enroll in any secondary school in a district that*
18 *succeeds the Grant Joint Union High School District as a pupil*
19 *whose parents reside in that other district. A pupil attending,*
20 *pursuant to this subdivision, a school district other than the school*
21 *district of residence is deemed to be a resident pupil transferring*
22 *from outside the attendance area of the school for purposes of the*
23 *open enrollment policy of the school district.*

24 (b) (1) *A school district that succeeds the Grant Joint Union*
25 *High School District shall adopt an open enrollment policy*
26 *pursuant to subdivision (b) of Section 35160.5 of the Education*
27 *Code to establish priority for pupils eligible to enroll in any of*
28 *grades 7 to 12, inclusive, in the following order:*

29 (A) *Currently enrolled pupils at a schoolsite who are residents*
30 *of the school attendance area.*

31 (B) *Currently enrolled pupils at a schoolsite under a policy on*
32 *intradistrict transfers existing before a policy is adopted pursuant*
33 *to this subdivision.*

34 (C) *Siblings of currently enrolled pupils at a schoolsite.*

35 (D) *Pupils who qualify as English learners.*

36 (E) *Pupils who qualify for the free and reduced price lunch*
37 *program.*

38 (F) *Other priorities that the governing board may establish.*

39 (2) *Priority among pupils in the same priority category shall be*
40 *resolved by random lottery.*

1 (c) A school district that succeeds the Grant Joint Union High
2 School District shall provide, at no cost to the pupil, transportation
3 from home or a reasonably convenient location to school to any
4 pupil who so requests and enrolls in a secondary school of the
5 district pursuant to subdivision (a).

6 (d) The school districts that succeed the Grant Joint Union
7 High School District shall jointly and annually hold at least one
8 special meeting of their governing boards for the following
9 purposes:

10 (1) To review segregation issues in the schools of the districts.

11 (2) To review the results of the open enrollment options offered
12 pursuant to this act.

13 (3) To propose other programs or policies to address racial
14 isolation or imbalance.

15 (e) An employee of the Grant Joint Union High School District,
16 the Rio Linda Union School District, or the North Sacramento
17 Union School District who becomes an employee of a school
18 district that succeeds the Grant Joint Union High School District
19 retains all seniority rights that he or she earned while employed by
20 the Grant Joint Union High School District, the Rio Linda Union
21 School District, or the North Sacramento Union School District.

22 SEC. 4. A ballot measure to approve a proposal to reorganize
23 the Grant Joint Union High School District shall clearly inform the
24 voters that by approving the measure the voters are mandating
25 each successor school district to incur costs to provide
26 transportation to pupils who are eligible to attend any of grades
27 7 to 12, inclusive and who request that transportation be provided
28 to them, hold joint annual meetings to review segregation issues,
29 and grant seniority rights to employees of school districts that
30 cease to exist as a result of the proposal who become employees of
31 the successor districts. The ballot measure shall also clearly
32 inform the voters that the state will not reimburse these costs
33 because they are not state-mandated local costs within the
34 meaning of Section 6 of Article XIIB of the California
35 Constitution.

36 SEC. 5. The Legislature finds and declares as follows:

37 (a) The costs incurred by the school districts that are successors
38 to the Grant Joint Union High School District to provide
39 transportation to pupils pursuant to subdivision (c) of Section 3,
40 hold joint annual meetings to review segregation issues pursuant

1 to subdivision (d) of Section 3, and grant seniority rights to
2 employees of school districts pursuant to subdivision (e) of Section
3 3 are not state-mandated costs within the meaning of Section 6 of
4 Article XIII B of the California Constitution.

5 (b) The voters in approving the proposal to reorganize the
6 Grant Joint Union High School District are mandating those costs.

7 (c) The state is not obliged to reimburse those costs.

8 SEC. 6. The Legislature finds and declares that, due to the
9 unique circumstances applicable to the Grant Joint Union High
10 School District, a general statute cannot be enacted within the
11 meaning of subdivision (b) of Section 16 of Article IV of the
12 California Constitution.

13 amended to read:

14 ~~35160.5.—(a) The governing board of each school district that~~
15 ~~maintains one or more schools containing any of grades 7 to 12,~~
16 ~~inclusive, shall, as a condition for the receipt of an inflation~~
17 ~~adjustment pursuant to Section 42238.1, establish a school district~~
18 ~~policy regarding participation in extracurricular and cocurricular~~
19 ~~activities by pupils in grades 7 to 12, inclusive. The criteria, which~~
20 ~~shall be applied to extracurricular and cocurricular activities, shall~~
21 ~~ensure that pupil participation is conditioned upon satisfactory~~
22 ~~educational progress in the previous grading period.~~

23 (1) For purposes of this subdivision, “extracurricular activity”
24 means a program that has all of the following characteristics:

25 (A) ~~The program is supervised or financed by the school~~
26 ~~district.~~

27 (B) ~~Pupils participating in the program represent the school~~
28 ~~district.~~

29 (C) ~~Pupils exercise some degree of freedom in either the~~
30 ~~selection, planning, or control of the program.~~

31 (D) ~~The program includes both preparation for performance~~
32 ~~and performance before an audience or spectators.~~

33 (2) ~~For purposes of this subdivision, an “extracurricular~~
34 ~~activity” is not part of the regular school curriculum, is not graded,~~
35 ~~does not offer credit, and does not take place during classroom~~
36 ~~time.~~

37 (3) ~~For purposes of this subdivision, a “cocurricular activity”~~
38 ~~is defined as a program that may be associated with the curriculum~~
39 ~~in a regular classroom.~~

~~(4) A teacher graded or required program or activity for a course that satisfies the entrance requirements for admission to the California State University or the University of California is not an extracurricular or cocurricular activity as defined by this section.~~

~~(5) For purposes of this subdivision, “satisfactory educational progress” shall include, but not be limited to, the following:~~

~~(A) Maintenance of minimum passing grades, which is defined as at least a 2.0 grade point average in all enrolled courses on a 4.0 scale.~~

~~(B) Maintenance of minimum progress toward meeting the high school graduation requirements prescribed by the governing board.~~

~~(6) For purposes of this subdivision, “previous grading period” does not include any grading period in which the pupil was not in attendance for all, or a majority of, the grading period due to absences excused by the school for reasons, including, but not limited to, serious illness or injury, approved travel, or work. In that event, “previous grading period” means the grading period immediately prior to the grading period or periods excluded pursuant to this paragraph.~~

~~(7) A program that has, as its primary goal, the improvement of academic or educational achievements of pupils is not an extracurricular or cocurricular activity as defined by this section.~~

~~(8) The governing board of each school district may adopt, as part of its policy established pursuant to this subdivision, provisions that would allow a pupil who does not achieve satisfactory educational progress, as defined in paragraph (4), in the previous grading period to remain eligible to participate in extracurricular and cocurricular activities during a probationary period. The probationary period may not exceed one semester in length, but may be for a shorter period of time, as determined by the governing board of the school district. A pupil who does not achieve satisfactory educational progress, as defined in paragraph (4), during the probationary period may not be allowed to participate in extracurricular and cocurricular activities in the subsequent grading period.~~

~~(9) This subdivision does not preclude the governing board of a school district from imposing a more stringent academic standard than that imposed by this subdivision. If the governing~~

1 ~~board of a school district imposes a more stringent academic~~
2 ~~standard, the governing board shall establish the criteria for~~
3 ~~participation in extracurricular and cocurricular activities at a~~
4 ~~meeting open to the public pursuant to Section 35145.~~

5 ~~The governing board of each school district shall annually~~
6 ~~review the school district policies adopted pursuant to the~~
7 ~~requirements of this section.~~

8 ~~(b) (1) On or before July 1, 1994, the governing board of each~~
9 ~~school district shall, as a condition for the receipt of school~~
10 ~~apportionments from the state school fund, adopt rules and~~
11 ~~regulations establishing a policy of open enrollment within the~~
12 ~~district for residents of the district. This requirement does not~~
13 ~~apply to a school district that has only one school or a school~~
14 ~~district with schools that do not serve any of the same grade levels.~~

15 ~~(2) The policy shall include all of the following elements:~~

16 ~~(A) It shall provide that the parent or guardian of each~~
17 ~~schoolage child who is a resident in the district may select the~~
18 ~~schools the child shall attend, irrespective of the particular~~
19 ~~locations of his or her residence within the district, except that~~
20 ~~school districts shall retain the authority to maintain appropriate~~
21 ~~racial and ethnic balances among their respective schools at the~~
22 ~~discretion of the school district or as specified in applicable~~
23 ~~court ordered or voluntary desegregation plans.~~

24 ~~(B) It shall include a selection policy for any school that~~
25 ~~receives requests for admission in excess of the capacity of the~~
26 ~~school that ensures that selection of pupils to enroll in the school~~
27 ~~is made through a random, unbiased process that prohibits an~~
28 ~~evaluation of whether any pupil should be enrolled based upon his~~
29 ~~or her academic or athletic performance. For purposes of this~~
30 ~~subdivision, the governing board of the school district shall~~
31 ~~determine the capacity of the schools in its district. However,~~
32 ~~school districts may employ existing entrance criteria for~~
33 ~~specialized schools or programs if the criteria are uniformly~~
34 ~~applied to all applicants. This subdivision does not prohibit school~~
35 ~~districts from using academic performance to determine eligibility~~
36 ~~for, or placement in, programs for gifted and talented pupils~~
37 ~~established pursuant to Chapter 8 (commencing with Section~~
38 ~~52200) of Part 28.~~

~~(C) It shall provide that no pupil who currently resides in the attendance area of a school shall be displaced by pupils transferring from outside the attendance area.~~

~~(3) Notwithstanding the requirement of subparagraph (B) of paragraph (2) that the policy include a selection policy for any school that receives requests for admission in excess of the capacity of the school that ensures that the selection is made through a random, unbiased process, the policy may include any of the following elements:~~

~~(A) It may provide that special circumstances exist that might be harmful or dangerous to a particular pupil in the current attendance area of the pupil, including, but not limited to, threats of bodily harm or threats to the emotional stability of the pupil, that serve as a basis for granting a priority of attendance outside the current attendance area of the pupil. A finding of harmful or dangerous special circumstances shall be based upon either of the following:~~

~~(i) A written statement from a representative of the appropriate state or local agency, including, but not limited to, a law enforcement official or a social worker, or properly licensed or registered professionals, including, but not limited to, psychiatrists, psychologists, or marriage and family therapists.~~

~~(ii) A court order, including a temporary restraining order and injunction, issued by a judge.~~

~~A finding of harmful or dangerous special circumstances pursuant to this subparagraph may be used by a school district to approve transfers within the district to schools that have been deemed by the school district to be at capacity and otherwise closed to transfers that are not based on harmful or dangerous special circumstances.~~

~~(B) It may provide that any pupil attending a school prior to July 1, 1994, may be considered a current resident of that school for purposes of this section until the pupil is promoted or graduates from that school.~~

~~(C) It may provide that no pupil who was on a waiting list for a school or specialized program, on or before July 1, 1994, pursuant to a then-existing district policy on transfers within the district, shall be displaced by pupils transferring after July 1, 1994, from outside the attendance area, as long as the continued~~

1 ~~maintenance on a waiting list remains consistent with the former~~
2 ~~policy.~~

3 ~~(D) It may provide that schools receiving requests for~~
4 ~~admission shall give priority for attendance to siblings of pupils~~
5 ~~already in attendance in that school and to pupils whose parent or~~
6 ~~legal guardian is assigned to that school as his or her primary place~~
7 ~~of employment.~~

8 ~~(E) It may include a process by which the school district~~
9 ~~informs parents or guardians that certain schools or grade levels~~
10 ~~within a school are currently, or are likely to be, at capacity and,~~
11 ~~therefore, those schools or grade levels are unable to accommodate~~
12 ~~any new pupils under the open enrollment policy.~~

13 ~~(4) It is the intent of the Legislature that, upon the request of the~~
14 ~~parent or guardian of a pupil and demonstration of financial need,~~
15 ~~each school district provide transportation assistance to the pupil~~
16 ~~to the extent that the district otherwise provides transportation~~
17 ~~assistance to pupils.~~

